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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**REVIEW APPLICATION NO. 35 OF 2024
IN
WRIT PETITION NO. 1162 OF 2022**

**RANJIT S/O. RAJU SIDDULWAR
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS.**

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Mr. R.B. Dhakne, Advocate for applicant.
Mr. N.S. Tekale, AGP for respondents.

**CORAM : SMT. VIBHA KANKANWADI
& S.G. CHAPALGAONKAR, JJ.**

DATE : 29th February, 2024.

P.C. :-

1. The applicant seeks review of the order dated 4.1.2024 in W.P. No. 1162 of 2022 that has been dismissed by this Court.
2. The applicant claims that he belongs to “Ellmalwar” Caste recognized as Scheduled Caste. His caste claim was referred to the Scrutiny Committee, however, by order dated 15.12.2021, the Committee invalidated the caste claim of the Petitioner. Aggrieved by the said order, the petitioner had approached this Court in W.P. No. 1162 of 2022. This Court, after hearing the advocates appearing for the respective parties dismissed the writ petition vide order dated 4.1.2024, which is subject matter of review in this application.
3. Mr. R.B. Dhakne, learned advocate for the applicant would

submit that, this Court observed in order under review that no pre-constitutional document is pressed into service in support of the caste claim of the petitioner, although, the petitioner had placed on record the Khasra Patrak of his cousin grandfather i.e. Mr. Pamyra Rajeyya Ellamavar, which is oldest and reliable document of the year 1952. There was no reason to discard the said document. He would further submit that Khasra Patrak depicts the caste of his cousin grandfather as 'Ellamavar', which is synonymous to 'Ellamalvar' caste. He would submit that the said document, coupled with the 1977 documents of applicant's father would be sufficient to uphold the caste claim of the applicant. He would submit that merely because entry in the Khasra Patrak of his cousin grandfather records as Ellamavar, that could not have been discarded. According to him, the reasoning given by this Court requires to be revisited and matter needs re-consideration by allowing the present application for review.

4. Mr. N.S. Tekale, learned AGP appearing for respondent Nos. 1 and 2 would submit that the grounds raised in the application do not constitute good grounds for review. The applicant, in fact, seeks re-appreciation of the entire evidence that was before this Court while deciding the writ petition.

5. Before we consider the submissions advanced on behalf of the respective parties, it would be appropriate to refer to the decision of the Supreme Court of India in the matter of Perry Kansagra vs. Smriti Madan Kansagra (2019)20 SCC 753 : AIR 2019 SC (Supp.122) wherein it is observed by the Apex court that while exercising review jurisdiction under Order 47 Rule 1 read with Section 114 of the CPC, the Review

Court does not sit in appeal over its own order. It is observed that re-hearing of the matter is impermissible in law. It is further observed that review is not an appeal in disguise. It is observed that the power of review can be exercised for correction of mistake but not to substitute its view. Such powers can be exercised within the limits of the statute dealing with the exercise of power. It is further observed that broader principle for exercise of review jurisdiction under Order 47 Rule 1 of CPC can be summed as under :-

- (i) Review proceedings are not by way of appeal and have to be strictly confined to the scope and ambit of Order 47 Rule 1 of CPC;
- (ii) Power of review may be exercised when some mistake or error apparent on the face of record is found. But error on the face of record must be such an error which must strike one on mere looking at the record and would not require any long drawn process of reasoning on the points where there may conceivably be two opinions.
- (iii) Power of review may not be exercised on the ground that the decision was erroneous on merits.
- (iv) Power of review can also be exercised for any sufficient reason which is wide enough to include the misconception of fact or law by a court or even an advocate.
- (v) An application for review may be necessitated by way of invoking the doctrine *actus curiae neminem gravabit*.

6. Turning back to the grounds of review raised on behalf of the applicant, it can be gathered that the applicant is trying to re-impose the importance of 1952 document for the purpose of deciding his caste status. The applicant seeks to attack the observations of this court

contending that “Ellamwar” and “Ellamalwar” is one and the same caste and Khasra Patrak entry of 1952 in respect of cousin grandfather although spelt differently, is an entry as regards to the caste claimed by him. Pertinently, the order under review refers to the similar submissions and those have been dealt with in para. No.6. This Court held that Khasra Patrak relied upon by the petitioners depicts the surmane of cousin grandfather as Ellamwar and does not refer to the caste as Ellamalwar, which is recognized as Scheduled Caste. Evidently, this court has recorded a finding on merit of the case regarding claim of the petitioner. This Court, after appreciation of the material pressed into service and after taking into account of the gist of the submissions advanced, concluded that the petitioner failed to establish the caste claim. Only because the applicant puts his arguments differently, this Court cannot re-appreciate the material on record and revisit the earlier judgment. The applicant also failed to bring to our notice any error apparent on the face of the record or obvious mistake that would constitute good ground for review. Resultantly, we do not find any reason to exercise our review jurisdiction. Hence, the application for review stands rejected.

[S.G. CHAPALGAONKAR, J]

[SMT. VIBHA KANKANWADI, J]

grt/-